

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RICKY L. THOMAS,

Plaintiff,

v.

SHIRLEY, *et al.*,

Defendants.

Case No. 1:23-cv-00470 JLT BAM (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING THE  
ACTION WITHOUT PREJUDICE, AND  
DIRECTING THE CLERK OF COURT TO  
CLOSE THIS CASE

(Doc. 48)

Ricky L. Thomas is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983, in which he sought to hold the defendant liable for deliberate indifference in violation of the Eighth Amendment. (*See* Docs. 11, 20.) The magistrate judge ordered Plaintiff to show cause why the Court should not dismiss the action for Plaintiff's failure to prosecute. (Doc. 47.) After Plaintiff failed to respond, the magistrate judge found Plaintiff failed to prosecute the matter and failed to obey the Court's orders. (Doc. 48.) The magistrate judge considered the factors identified by the Ninth Circuit in *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986), and found terminating sanctions are appropriate. (*Id.* at 3-4.) Therefore, the magistrate judge recommended the Court dismiss the action without prejudice "for failure to prosecute and for failure to obey court orders." (*Id.* at 4.)

The Court served the Findings and Recommendations on the parties and notified Plaintiff that any objections were due within 14 days. (Doc. 48 at 4.) The Court advised Plaintiff that the

1 “failure to file objections within the specified time may result in the waiver of the ‘right to  
2 challenge the magistrate’s factual findings’ on appeal.” (*Id.*, quoting *Wilkerson v. Wheeler*, 772  
3 F.3d 834, 838-39 (9th Cir. 2014).) Neither Plaintiff nor Defendant filed objections, and the time  
4 to do so has passed.

5 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.  
6 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations  
7 are supported by the record and proper analysis. Thus, the Court ORDERS:

8 1. The Findings and Recommendations issued on January 13, 2025 (Doc. 48), are  
9 **ADOPTED** in full.  
10 2. This action is **DISMISSED** without prejudice, for Plaintiff’s failure to prosecute  
11 and failure to obey a court order.  
12 3. The Clerk of Court is directed to terminate all pending motions and close this case.

13 IT IS SO ORDERED.

14 Dated: February 13, 2025

  
15 UNITED STATES DISTRICT JUDGE

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28